

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 14

CHALLENGE UNLIMITED, INC., RESIDENTIAL OPTIONS,  
INC., AND SPECIALIZED PROFESSIONAL SERVICES, INC.,  
d/b/a ALPHA INDUSTRIES

Employer<sup>1</sup>

and

Case 14-RC-12507

AFSCME COUNCIL 31, AFL-CIO (AMERICAN  
FEDERATION OF STATE, COUNTY & MUNICIPAL  
EMPLOYEES COUNCIL 31)

Petitioner

**REGIONAL DIRECTOR'S DECISION AND**  
**DIRECTION OF ELECTION**

The Employer consists of three Illinois corporations whose shared mission is to improve the quality of life for individuals with disabilities. The Employer operates group homes, provides developmental training, and directly employs disabled and non-disabled individuals at its own facilities and other facilities pursuant to service contracts with state, federal, and community clients located in Illinois, Missouri, and Wisconsin.

The Petitioner filed a petition with the National Labor Relations Board under Section 9(c) of the National Labor Relations Act seeking to represent a multilocation unit of certain non-professional employees. At hearing, the Petitioner amended its petition to request three separate multilocation units including: (1) a residential unit consisting of 106 employees working at the Employer's 13 group homes; (2) a developmental training (DT) unit consisting of 33 DT employees working at the Employer's two developmental training facilities; and (3) a production

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<sup>1</sup> The Employer's name appears as amended at hearing. The parties stipulated that Challenge Unlimited, Inc., Residential Options, Inc., and Specialized Professional Services d/b/a Alpha Industries, Inc., are a single employer based upon common management, centralized control over labor relations, common financial management including commingling of finances, and operational integration. Accordingly, I find that the three corporations are a single employer for purposes of collective bargaining within the meaning of Section 2(2) of the Act.

unit consisting of 84 employees working at the Employer's three production facilities.<sup>2</sup> A hearing officer of the Board held a hearing, and the parties filed briefs with me, which I have carefully considered.

As evidenced at the hearing and in the briefs, the parties disagree on whether the unit must include all of the Employer's non-professional employees working at all of the Employer's sites. There are approximately 397 employees in the broader employer-wide unit urged by the Employer. I have considered the evidence and arguments presented by the parties on this issue. I have concluded that each of the three units sought by the Petitioner represents a sufficiently distinct and readily identifiable group of employees who share a community of interest apart from other employees. Accordingly, with the slight modifications as discussed below, I have directed an election in the three units sought by the Petitioner.

#### **I. DESCRIPTION OF OPERATIONS**

The Employer provides services and support for individuals with disabilities through Residential Options, Inc. (Residential), Challenge Unlimited, Inc. (Challenge), and Alpha Industries (Alpha). Through Residential, the Employer provides group housing for 125 individuals with diagnosed disabilities or "persons receiving services" at 13 group homes in Madison County, Illinois. Many of the residents of the Employer's group homes, along with other persons receiving services, also participate in daily programs and training workshops offered at the Employer's DT facilities located in Alton and Swansea, Illinois. The DT facilities, which are a separate department of Challenge, also provide persons receiving services with the opportunity to perform "piece rate" assembly and food service work at each facility.<sup>3</sup> Through Alpha, the Employer operates three production facilities in Granite City, Illinois. The Alton DT

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<sup>2</sup> This figure includes one employee referred to as the "Alpha-Swansea production worker" who is no longer working at the Employer's Alpha production facility and now performs assembly work at the Swansea DT facility.

<sup>3</sup> The parties have stipulated, and I agree, that "persons receiving services" are excluded from the unit on the grounds that they are not employees pursuant to *Goodwill Industries of Denver*, 304 NLRB 764 (1991). The Employer also offers employment opportunities to economically disadvantaged individuals who do not have a diagnosed disability. These individuals are treated as regular employees.

facility supplies two of these production facilities with persons receiving services who perform production work alongside the Employer's regular production employees.

Also, through Challenge, the Employer utilizes employees and persons receiving services to perform food service, grounds maintenance, recycling and janitorial work primarily pursuant to state and federal contracts. These locations are considered Employer sites for the purposes of this hearing. Many of the persons receiving services who perform service work pursuant to state and federal contracts receive assistance from the Employer's vocational rehabilitation department. The Employer's vocational rehabilitation (VR) facility is located in Alton, Illinois. This Challenge department also develops employment opportunities for persons receiving services with community employers and provides necessary training and accommodations to assist the individual to perform all necessary duties.

The headquarters for all three corporations is located in one administrative building in Alton, Illinois. While each corporation has a president/ceo and a nine-member board of directors, the same individuals hold the same positions for all three corporations. There are six vice presidents whose various duties encompass all three corporations. There is common administrative and operational management that includes centralized human resources, accounting, payroll, and purchasing functions. The human relations department performs all hiring and training and handles all personnel issues for all three corporations. In addition to this general training, all employees receive site-specific on-the-job training. Job openings for all three corporations are posted in a single document that is distributed to all employees on a weekly basis. Though each corporation has its own employee handbook, the personnel and disciplinary policies in the handbooks are nearly identical, with any differences relating mainly to wages and benefits. The Employer's grievance procedures are available to employees at all locations.

Though employees share the same overall supervision, there are local managers at the Employer's various locations who possess significant autonomy. The local managers

participate in the hiring process for higher-level positions. They can discipline employees without consulting the human resources department. Approximately 75 percent of the time, the human resources department follows a local manager's recommendation for termination without conducting any independent investigation. All of these local managers receive similar training and rely upon a common manual that provides clear guidelines for addressing disciplinary issues. The local manager also performs all employee evaluations, monitors attendance, and approves vacation requests. With respect to employees working pursuant to a service contract, the local manager's discretion with respect to the direction of the work may be circumscribed by contractual terms regulating the manner in which the work is to be performed.

Since July 2003, the Employer has temporarily transferred employees from one location to another location on 18 occasions. Of these, only six involved transfers between a unit classification and a different unit or non-unit classification. There have been six permanent location transfers since 2002, but only three involved transfers between a unit classification and a different unit or a non-unit classification. It appears that most, if not all, of these temporary and permanent transfers were made at the employee's request.

## **THE GROUP HOMES**

The Employer operates 13 group homes in Madison County, Illinois, including 8 Community Integrated Living Arrangements (CILAs) and 5 Intermediate Care Facility for Persons with Developmental Disabilities (ICFDDs). Together, these facilities provide housing for 125 persons receiving services, referred to hereafter as residents. Both the CILAs, which have 8 beds per facility, and the ICFDDs, which have 16 beds per facility, are funded by the Illinois Department of Human Services.<sup>4</sup> Nonetheless, the operations are subject to different

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<sup>4</sup> Each home has its own budget based upon the income brought in by each home. If residents work, state regulations allow the individual to keep \$50 per month but require the remainder be remitted to the group home to offset the costs of providing care.

administrative regulations and policies.<sup>5</sup> However, the Employer generally applies the more stringent ICFDD standards to the CILAs. Likewise, the Employer applies the same internal policies and procedures to the operation of all 13 group homes.

Through consecutive, round-the-clock shifts at each home (6 a.m. to 2 p.m.; 2 p.m. to 10 p.m.; and 10 p.m. to 6 a.m.), the Employer provides 24-hour care to residents. This assistance encompasses all aspects of daily living, including grooming, dressing, bathing, money management, pet care, recreational activities, house cleaning, and meal preparation. With the aim of encouraging increased independence, each resident has an “individual program plan” that outlines treatment based upon an assessment of the resident’s particular needs.

There is a facility supervisor or Qualified Mental Health Professional (QMRP) at each home.<sup>6</sup> The facility supervisor or QMRP reports to the vice president of Residential, who in turn reports to the Employer’s executive vice president of life services. All members of the residential staff are directly responsible to the facility supervisor or QMRP for ensuring the residents’ health, safety, and well-being. The residential staff employees that provide the front-line care are referred to as Community Service Workers (CSWs) and Mental Health Professionals (MHPs) at the CILAs, and Habilitation Technicians (HTs) and cooks at the ICFDDs.

At each home, a team leader coordinates the delivery of treatment services and provides supervision in the absence of the facility supervisor or QMRP. However, the team leader spends 85-90 percent of his/her time performing the same direct care duties as the CSWs, MHPs, HTs, and cooks. The team leader position requires a high school diploma or equivalent and 6 months’ experience in working with persons with disabilities and mental illnesses. Some

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<sup>5</sup> Extensive regulations govern a wide range of issues from employee background checks, to food preparation, medication storage, and staff ratios; failure to comply with the regulations could result in a loss of funding. The Illinois Department of Public Health administers regulations for ICFDD facilities, while the Illinois Department of Human Services regulates CILA facilities.

<sup>6</sup> The parties have stipulated that Case Manager/QMRPs are professional employees because the position requires a bachelor’s degree and the work engaged in is predominately intellectual and involves the consistent use of independent discretion.

team leaders receive at least \$8.65 an hour; while others receive at least \$7.90 an hour. The team leader/MHP classification receives at least \$9.10 an hour.

The MHPs and CSWs perform the same direct care duties, but the MHPs also provide additional services to residents with mental illnesses. The MHP position requires a high school diploma and 5 years of related experience. The MHPs receive at least \$8.14 an hour, and the CSW/MHP positions receive at least \$7.92 an hour. The CSW and HT positions receive at least \$7.20 an hour and require a high school diploma or equivalent. However, ICFDD regulations also require the HT to obtain state certification. These regulations also require the Employer to have a certified cook on duty for each shift. The certified cook purchases the food, prepares meals, and trains residents in meal preparation. In addition, the cooks perform the same duties as the HT. This position requires a high school diploma or equivalent and an Illinois Food Service and Sanitation Certificate. Cooks receive at least \$7.70 an hour; cook/HTs receive at least \$8.74 an hour.

There is one licensed practical nurse (LPN) who apparently visits most, if not all, of the homes on a daily basis to monitor the residents' medical conditions. The LPN reviews any documents received by residents from their outside health care providers. The LPN's office is located in the Residential office located within the Alton DT facility. The LPN reports to the Director of Nursing (DON), who reports to the vice president of Residential. This position requires a license and receives at least \$14.40 an hour.

The Employer utilizes two maintenance technicians to perform necessary maintenance and repair work at the group homes. Though the Employer provides each technician with a vehicle and tools, the technicians are also required to use their personal tools. These employees spend approximately 85 percent of their time working at the Employer's 13 group homes and 15 percent working at other Employer sites. However, the maintenance technicians do not perform any work at the Employer's sites in Springfield, Illinois or Ft. McCoy, Wisconsin.

Their hours of work are from 8 a.m. to 4 p.m., Monday through Friday. However, the technicians remain on-call and frequently work outside of normal business hours. While the maintenance technicians are supposed to report to the Employer's Director of Safety, it appears they more frequently follow instructions from facility supervisors, QMRPs, or DT program managers. The maintenance technicians receive at least \$14.40 an hour. This position requires a high school diploma or equivalent, building maintenance experience, and a basic knowledge of construction, electrical work, plumbing, and appliance repair.

All residential staff members are required to immediately report any allegations of resident abuse, neglect, or theft of property and must attend all in-service training sessions. Employees are not required to wear a uniform. Employees utilize a time clock to record their time. The Petitioner contends that the LPN does not share a community of interest with the other residential staff employees. Excluding the LPN, the Petitioner's requested residential unit consists of 106 non-professionals working at the Employer's group homes, including: 28 CSWs; 5 CSW/MHPs; 30 HT; 16 MHPs; 7 team leaders; 5 team leaders/MHP; 10 cooks; 3 cook/HTs, and 2 maintenance technicians.

As employees of Residential, these classifications receive 7 paid holidays and 6 sick days every year; they earn 1 week of vacation after their first year, 2 weeks after their second year, and 3 weeks after their fourth year anniversary. Full-time hourly employees can participate in the Employer's insurance plan after satisfying an eligibility period. In addition to these benefits, the salaried LPN position can participate in the Employer's 401(k). Also, hourly employees receive time and a half pay if they work on a holiday, while the LPN receives an additional paid day off for holiday work.

## **THE DT FACILITIES**

The Employer provides work readiness workshops and life skills training programs covering a variety of topics, including money management, personal hygiene, and social skills at DT facilities in Alton and Swansea, Illinois. The DT facilities operate Monday through Friday,

from 8:00 a.m. to 4:30 p.m. While many of the persons receiving services at the DT facilities reside in the Employer's group homes, the Employer also contracts with other area residential providers to provide DT services to their clients.

The DT facilities offer work opportunities within the facility and out in the community. At both DT facilities, persons receiving services may perform food service work or piece rate assembly work such as sorting hangers, cutting up rags, or cutting, drying, and assembling funeral flowers onto memorial wreaths. The Alton DT facility refers persons receiving services to work at two of the Employer's Granite City, Illinois production facilities. DT participants may also be referred to perform janitorial tasks pursuant to the Employer's service contracts. Currently, there are 198 persons receiving services who perform piece rate assembly, or provide janitorial services to community clients from the Alton DT facility; 66 persons receiving services perform piece rate assembly or provide janitorial services from the Swansea DT facility.

Because the DT facilities are funded by the Illinois Department of Human Services, there are extensive regulations that govern many aspects of the operations, including admission and discharge policies, employee background checks, treatment plans, medication storage procedures, and evacuation plans. Because these regulations do not permit DT nonprofessionals to pass out medicine, the Employer utilizes contract nurses to administer medication to persons receiving services.

At the Alton DT facility, the Petitioner seeks 26 unit positions, including 1 head supervisor, 1 lead supervisor, 1 lead trainer/special needs, 3 case managers, 1 job coach, 1 program assistant, 1 program supervisor safety, 16 program supervisors, and 1 cafeteria worker. At the Swansea facility, the Petitioner seeks seven non-professional employees, including one head trainer, one job coach, one program assistant, and four program



supervisors.<sup>7</sup> The same job classifications perform the same duties at each facility. These employees do not wear uniforms and utilize a time clock to record their time. The parties disagree over the supervisory status of one assistant production manager at the Alton facility and one production coordinator at the Swansea facility. At their respective facilities, these classifications monitor the performance of assembly work to ensure the contractual specifications are met. At hearing, the parties agreed to allow these classifications to vote subject to the challenge procedure.

The head supervisor at the Alton DT facility monitors the overall supervision of persons receiving services to ensure that the various programs are carried out in a satisfactory manner. The head supervisor also ensures that the contract nurse passes out medication as necessary. In carrying out these tasks, the head supervisor is assisted by the lead supervisor/program supervisor, the program supervisor/safety, and the lead trainer/special. It appears that most, if not all, of these positions require 2 years experience in working with persons with disabilities, as well as a high school diploma or equivalent. Additionally, these classifications monitor the program supervisors.

The program assistant and the program supervisors provide job and life skills training and implement behavioral programs as required by the individualized program plans. They assist in meeting the daily personal care needs of the persons receiving services and formulate treatment strategies for those who require specialized or intensive programming. Though the program supervisors work primarily at the Alton DT facility, they may occasionally accompany persons receiving services assigned to work at the Employer's production facilities. On a weekly basis, the program assistant transports a group of persons receiving services to perform paper shredding services for a community client. While both positions require a high school

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<sup>7</sup> The Petitioner's DT unit does not seek to include two vocational rehabilitation employees whose offices are located at the Swansea facility or the "Alpha-Swansea production worker" who performs piece rate assembly work at the Swansea DT facility.

diploma or equivalent, the program assistant position also requires 3 years of experience in working with individuals with disabilities.

The case managers are responsible for ensuring that the persons receiving services actually receive the services that are outlined in their individual program plans. In addition to coordinating treatment programs, the case managers notify program supervisors of medication changes or behavioral changes. In this regard, they also communicate with the family and/or residential care providers of the person receiving services. While 95 percent of their work is performed at the DT facility, case managers occasionally take clients into the community to conduct independent skills training. The case manager position requires some college with an emphasis on human services and 2 years' experience in working with individuals with disabilities.

There is one job coach at each DT facility. These job coaches spend part of their time at the DT facility and part of their time at community work sites. At the DT facility, the job coach ensures that the health, safety, and welfare needs of the persons receiving services are being met for the particular day. At the community work sites, the job coach monitors the work performed by the person receiving services and provides corrective feedback. The job coach may have to work evenings or weekends when coaching on particular jobs as required by the Employer's service contract. The job coach performs any tasks that the person receiving services cannot successfully complete. The janitorial job coach trainer requires a high school diploma or equivalent, janitorial/housekeeping work experience, and 2 years' experience in working with individuals with disabilities.

At the Swansea DT facility, there is one head trainer who administers the "Moments Remembered" memorial wreath contract program. The head trainer supervises persons receiving services as they cut, dry, and then assemble funeral flowers onto memorial wreaths. Both facilities operate cafeterias that provide persons receiving services the opportunity to train and work in food service. While both locations have a cafeteria manager, the Employer

contends that only the Alton cafeteria manager is a 2(11) supervisor.<sup>8</sup> There is one cafeteria employee at the Alton location that performs food service duties and trains persons receiving services.

All DT employees are required to attend quarterly meetings that are conducted at the Alton DT facility. Within each DT facility, program supervisors meet on a weekly basis to discuss production related issues. DT employees may confer with group home employees regarding persons receiving services from the DT facility who also live at the Employer's group homes. There are 100 group home residents who participate in the DT workshops.

All DT employees receive at least \$6.50 an hour. With the exception of the cafeteria employee, the DT classifications are salaried positions that receive life, health, dental, short and long-term disability insurance, 401(k), 10 paid holidays per year, 4 personal days, and between 8 and 12 sick days, depending upon the employee's length of service. They are entitled to 2 weeks of vacation after 1 year, 3 weeks after 5, and 4 weeks after 10 years. As an hourly employee, the cafeteria employee does not receive any health insurance benefits and cannot participate in the Employer's 401(k). The position receives 8 paid holidays, a funeral day, and earns a maximum of 2 week's vacation per year.

## **THE VOCATIONAL REHABILITATION FACILITY**

The Employer operates a VR facility in Alton, Illinois, that provides vocational assistance to persons receiving services. The difference between the Employer's vocational rehabilitation and developmental training relates to disability level. Persons receiving services who participate in the Employer's VR program possess a higher skill level and are able to work in a competitive setting with minimal assistance. They function more independently than persons receiving services who participate in the Employer's DT program. There are currently 214 persons receiving services from the Employer's vocational rehabilitation program. Of these, 125

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<sup>8</sup> The parties have stipulated to allow both cafeteria managers to vote pursuant to the Board's challenge procedures.

are employed by the Employer pursuant to the Employer's service contracts. The remaining 89 are employed by community employers like Wendy's or Wal-Mart, who agree to hire a person receiving services for a trial period of 60, 90, or 120 days. Vocational rehabilitation employees work with the person receiving services to provide training or necessary accommodations that will enable the person to satisfactorily perform the required tasks. At the end of the trial period, the community employer decides whether to keep the person receiving services as a permanent employee.

There are nine vocational rehabilitation employees at issue, including one extended employment (EEP) coordinator, one supported employer (SEP) case manager, one employment specialist, four job coach/trainers, one job coach, and one SEP trainer/job coach.<sup>9</sup> The SEP case manager shares the same duties as the EEP coordinator, but the position is funded through grants from the Department of Human Services. Two of these positions, the EEP coordinator and one job coach/trainer, maintain offices at the Swansea DT facility instead of the Alton VR facility due to space considerations. All of the vocational rehabilitation employees are supervised by the Employer's director of employment services.

The EEP coordinator manages a caseload of approximately 100 persons receiving services, the majority of whom work at Scott Air Force Base pursuant to federal service contracts. The EEP coordinator spends 2 or 3 days a week traveling to the military base and other community work sites to assess the vocational needs of persons receiving services. The EEP coordinator meets with persons receiving services to determine whether they require any particular training or assistance in order to perform their job duties more independently. The EEP coordinator works closely with the job coach/trainer assigned to the same person receiving services. Like the EEP coordinator, this job coach/trainer spends very little time in the office at the DT facility. This position travels to Scott Air Force Base approximately 4 days per week.

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<sup>9</sup> The parties stipulated that one summer temporary worker is employed in a clerical position.

Neither the EEP coordinator nor the job coach/trainer shares any clients with the DT employees. Any interaction between these VR employees and DT employees is incidental and not work-related.

All job coaches spend the majority of their time at job sites coaching and working with persons receiving services as they perform work pursuant to service contracts with state, federal, or community clients. Job coaches do not work set hours because they must be available to provide support and coaching to persons receiving services who work night shifts. The job coach/trainer position performs the same functions as the job coach, but the position is funded through a grant from the Department of Human Services. The job coach position requires a high school diploma or equivalent, a valid driver's license, and personal auto insurance. Individuals must be at least 21 years of age with some work experience. While prior rehabilitation experience is preferred, it is not required.

The employment specialist contacts potential employers to explore vocational opportunities for persons receiving services. In addition to developing new jobs, this position provides job placement, counseling, and on-site training to persons receiving services. A high school diploma or equivalent and 1 to 2 years' of experience working with individuals with disabilities is required.

All of the Employer's VR employees are salaried employees. Most classifications receive at least \$6.50 an hour, though case managers receive at least \$10.25 an hour. As salaried employees, they receive life, health, dental, short and long-term disability insurance, 401(k), 10 paid holidays per year, 4 personal days, and between 8 and 12 sick days, depending upon the employee's length of service. They are entitled to 2 weeks of vacation after 1 year, 3 weeks after 5, and 4 weeks after 10 years.

## **THE PRODUCTION FACILITIES**

The Employer operates three production facilities in Granite City, Illinois, referred to as Alpha, Alpha-Dial, and RiversEdge. The locations share common supervision. There is a

project manager at Alpha-Dial, and one project manager for Alpha and RiversEdge, who report directly to the Employer's executive vice president of sales and marketing. Nonprofessional classifications at these locations include production employees, forklift drivers, over-the-road (OTR) tractor/trailer drivers, machine operators, line leaders, and quality assurance employees, though not all classifications work at each location. The Employer utilizes persons receiving services to perform production work at Alpha and Alpha-Dial, but not at RiversEdge due to the high-speed machinery at that location. Persons receiving services work 4-hour shifts.

### **Alpha Facility**

The Employer's main production facility, Alpha, is a 33,000 square-foot facility, with a production area, shipping and receiving offices, and a warehouse storage area. The Employer leases approximately 4000 square feet to a tenant. At this location, the Employer performs shrink wrapping for Dial Corporation and other customers. The hours of operation are Monday through Friday, 7 a.m. to 3 p.m. However, the Employer may run a second shift to meet Dial's needs. There are currently 28 production employees, 2 line leaders, 1 forklift operator, and 2 OTR drivers. The OTR drivers report to the shipping and receiving supervisor who reports to the executive vice president of sales and marketing. A shift supervisor reports to the production manager.

The majority of work at Alpha involves shrink wrapping Dial products using stretch wrapping and banding equipment, though employees also build pallets and displays. A forklift driver transports raw product to the production line and finished product to the staging area, where it is loaded onto trucks and transported by tractor/trailer drivers to the Dial facility or another nearby distribution center. At the time of hearing, there were approximately 20 persons receiving services restacking pallets and building displays at the Alpha facility.

### **Alpha-Dial**

The Alpha-Dial facility operations occur within the Dial Corporation's 900,000 square-foot distribution warehouse located in Granite City, Illinois. From a 15,000 to 20,000 square-foot

area, Alpha-Dial employees perform “cold copack” for Dial from 8 a.m. to 3:30 p.m., Monday through Friday. Depending upon Dial’s needs, the Employer may operate longer hours or run additional shifts. At the time of hearing, the Employer operated a second shift from 3:30 to 11 p.m. There are approximately 22 employees, including 20 production workers, 1 line leader, and 1 janitor at this location. Though the numbers fluctuate, approximately six to ten persons receiving services worked at Alpha-Dial at the time of the hearing.

The cold copack work performed by production employees includes building displays and “repalletizing” Dial products. The production employees remove Dial products from corrugated cardboard cases, and combine and repackage different Dial products onto pallets according to Dial’s specifications. The pallets are then wrapped and prepared for shipment to large discount stores like Wal-Mart and K-Mart. The janitor picks up any trash and bales the corrugated cardboard but does not perform any other cleaning, which is handled by Dial’s janitorial staff. The line leader works on the line performing actual production work at least 50 of the time, and spends the rest of the time performing tasks that make it easier for the production workers to perform their jobs efficiently, like opening cases of products or moving pallets by use of a hand jack. The production employees, the line leader, and the janitor report to the project manager.

### **RiversEdge**

The Employer operates a production and warehouse storage facility referred to as RiversEdge. Due to increased workloads, the Employer is currently operating two 10-hour shifts from 7 a.m. to 5 p.m., and 5 p.m. to 7 a.m., rather than the standard 8-hour shift. The facility normally operates Monday through Friday, with occasional Saturday shifts. There are currently 21 production employees at this location, including 5 production workers, 4 machine operators, 1 lead quality assurance assistant, and 11 forklift drivers.

Approximately 85 percent of the production work involves high-speed shrink wrapping conducted by four machines with conveyor belts. The production workers open up cases of raw

product, assemble products together, and remove the wrapped product from the conveyor line. The machine operators run the shrink wrapping and blister pack machines, which are more sophisticated than the shrink wrap equipment at Alpha. Production employees then pack the product into cases, which are loaded by forklift drivers onto a pallet and moved to the storage area or onto trucks. The quality assurance assistant conducts random spot checks on finished products according to a quality control plan. In addition to production work, the Employer utilizes the warehouse space to store finished products produced at RiversEdge or at Alpha. Though the Employer does not require any uniform, some line leaders at RiversEdge may wear an Alpha button-down shirt.

For all production operations, employees in the same classification are subject to the same wage rate. The production employees, janitors, and OTR drivers receive at least \$5.75 an hour; forklift drivers receive at least \$8.50 an hour; machine operators, line leaders and quality assurance employees receive at least \$6.35 an hour. The hourly employees receive 8 paid holidays, 1 funeral day, and can earn a maximum of 2 weeks of vacation per year, based upon the average hours worked per week by the employee, excluding overtime hours. However, the OTR tractor/trailer driver and the lead quality assurance assistant are salaried positions that receive life, health, dental, short and long-term disability insurance benefits. The record does not identify the other benefits received by these Alpha salaried employees. All the employees punch a time clock. The Employer does not require any particular skills or prior production experience, as all employees receive on-the-job-training. Forklift drivers, however, have to pass a particular safety test.

## **THE TRANSPORTATION DEPARTMENT**

The Petitioner seeks to include seven transportation employees (two bus drivers, one bus monitor, two CDL bus drivers, and two van drivers) in its requested unit of production employees, presumably because the transportation office is located at the RiversEdge facility in Granite City, Illinois. However, the record does not reflect whether any or all of the



transportation department employees are actually present at the RiversEdge facility on a daily basis, and if so, for what amount of time. Indeed, there are no persons receiving services who work at the RiversEdge location. Though the testimony is unclear, it appears that some of the drivers report directly to the Alton DT facility or other Employer locations. The Employer does not provide any transportation for persons receiving services from the Employer's VR department. Transportation employees are supervised by the director of transportation who reports to the Employer's vice president of operations. The drivers normally work 8-hour shifts that begin at 5:30 a.m. or 6:30 a.m., but drivers may clock out if there is a long time period between dropping off and picking up persons receiving services. The Employer generally only pays drivers for actual driving time.

Every morning, drivers pick up persons receiving services from their residences, which include private residences as well as group homes, and drive them to the Employer DT facilities. Because of their visibility in the community, the transportation employees wear a distinct uniform not worn by other employees, which consists of a polo shirt with the Challenge logo, a hat, and a jacket. In addition to driving, the drivers provide assistance to persons receiving services, referred to as passengers, as they are entering and exiting the vehicle. If a passenger utilizes a wheelchair, the driver utilizes a "tie down" to secure the individual. When dropping passengers at the end of the day, the drivers ensure that a responsible person is present at the location. If not, the driver will return the passenger to a safe and secure location until a guardian or other responsible person is located.

The drivers operate either a 14-passenger van with a wheelchair lift, a 15-passenger van without a wheelchair lift, or a 32-passenger Blue Bird bus. The Employer uses a bus monitor as a precautionary measure to handle potential disturbances on its Blue Bird bus. A commercial drivers' license is required for any vehicle with a wheelchair lift that carries over 14 passengers. Transportation department employees are hourly employees who receive at least \$5.75 an hour. These hourly employees receive 8 paid holidays, one funeral day, and can earn a

maximum of 2 weeks of vacation per year, regardless of the number of years worked, based upon the average hours worked per week by the employee, excluding overtime hours.

## **THE SERVICE OPERATIONS**

The Employer utilizes employees and persons receiving services to perform work pursuant to service contracts with the state, federal, and community clients. The Employer's vice president of operations is the overall manager for all of the Employer's service contracts. At each of the sites, there is a local manager (who may be assigned to one or more sites) who report to the vice president.

### **Federal Contracts**

Pursuant to the Employer's federal contracts, employees and persons receiving services perform groundskeeping, food service, recycling, and janitorial and custodial services at locations in St. Louis, Missouri; Scott Air Force Base, Illinois; Springfield, Illinois; and Ft. McCoy, Wisconsin. Though working hours vary, all employees utilize time clocks to record their time. The janitorial services include office care, floor, and restroom care. The groundskeeping services provided include mowing, weeding, laying sod, fertilizing, snow removal, and other lawn maintenance services. These service employees wear a blue button-down or polo shirt with the Challenge logo. The food services contracts involve the operation of dining halls by service attendants, dishwashers, cooks, and cashiers to provide three meals a day, 365 days per year at Scott Air Force Base, Illinois and Ft. McCoy, Wisconsin. Food service employees wear their own distinct uniform that consists of a blue shirt, a silver vest, a silver ascot, pants, shoes, and a hat.

There are 125 employees and approximately 159 persons receiving services employed pursuant to federal contracts. At the St. Louis, Missouri locations, there are 21 nonprofessional employees, including 17 janitors, 3 floor crew workers, and 1 day utility person, and 31 persons receiving services. At Scott Air Force Base, there are 79 employees, including 2 laborers, 1 operator, 5 recycling workers, 1 delivery person, 40 janitors, 1 lead worker, 3 cashiers/cooks, 2

cashiers, 7 cooks, 2 deli workers, 14 food service workers, and 1 food service/dishwasher. There are approximately 85 persons receiving services working at Scott Air Force Base.

At the Springfield, Illinois sites, there are 10 janitors providing custodial services and 3 persons receiving services. At Ft. McCoy, Wisconsin, there are 15 nonprofessional employees including 1 evening supervisor, 5 janitors, 3 lead workers, 1 floor supervisor, 3 cooks, 1 cook supervisor, 1 food service worker, and 40 persons receiving services. Wage rates for federal contracts are determined by federal wage determination rates for each job classification. Employees performing service work under federal contracts generally receive higher wages than their counterparts performing the same tasks for state and community clients. Generally, janitors receive at least \$6 an hour; cafeteria workers receive at least \$6.15 an hour; food service workers receive at least \$7.80 an hour; recycling workers receive \$15.03 an hour; cooks receive at least \$10.26 an hour; and grounds laborers receive at least \$10.27 an hour.

Federal contract employees receive 10 paid holidays and 2 weeks of vacation after 1 year, 3 weeks after 5, and 4 weeks after 15 years. In addition to the minimum federal wage rates, the federal contracts require the Employer to contribute a certain amount toward an Employer-supplied insurance plan which includes life, health, dental, vision, short-term disability, and supplemental accident insurance.

#### **State and Community Contracts**

The Employer utilizes 20 employees and 21 persons receiving services to perform janitorial service for the State of Illinois at locations in East St. Louis, Alton, Highland, Mascoutah, and Springfield. Wage rates are set by state wage determination rates. Pursuant to service contracts with US Steel, Conoco/Phillips, and Guaranty Title Co., the Employer utilizes 14 employees and 2 persons receiving services to perform janitorial and mailroom services for these community clients. These employees wear the blue Challenge button down or polo shirt. Most, if not all, utilize a time clock to record their time. The janitors receive at least \$6 an hour; the mailroom workers receive at least \$5.50 an hour. They are hourly employees

who do not receive any health insurance benefits and cannot participate in the Employer's 401(k). They receive 8 paid holidays, a funeral day, and can earn a maximum of 2 weeks' vacation per year.

## II. THE SCOPE OF THE UNIT

This case presents the issue of whether the residential, DT, and production units sought by the Petitioner are appropriate units for bargaining. Because the Petitioner is not required to seek the *most* appropriate unit, the present inquiry is simply whether each of the requested units is *an* appropriate unit. *The Lundy Parking Co., Inc.*, 314 NLRB 1042, 1043 (1994). Because the requested units involve employees working at multiple facilities, there is no presumption of appropriateness. To determine whether a multilocation unit is appropriate, the Board traditionally considers various community of interest factors including past bargaining history; general working conditions, wages, and benefits; degree of functional integration; common supervision; nature of employee skills, training, and function; interchange and contact among employees; and work situs. See *Alamo Rent-A-Car*, 330 NLRB 897, 897-898 (2000). Here the parties have stipulated that there is no prior bargaining history. Nor is there any significant evidence of interchange between any of the Employer's locations.<sup>10</sup>

In addition to these traditional factors, the Employer contends that I must also consider the Congressional admonition against bargaining unit proliferation in the health care industry. However, I need not resolve the question of whether the Employer is a health care institution within the meaning of Section 2(14) of the Act.<sup>11</sup> However, I do note that the Employer's programs are vocational rather than medical in nature, and the Board has distinguished this type of operation from mental health centers, clinics, or residential homes that provide medical

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<sup>10</sup> There are not a significant number of permanent or temporary transfers between locations. Moreover, the vast majority of transfers were made pursuant to an employee's request. Voluntary transfers, such as those transfers initiated by employees for personal convenience or benefit, are of limited significance for purposes of our analysis. See, e.g., *Red Lobster*, 300 NLRB 908, 911 (1190).

<sup>11</sup> Section 2(14) of the Act defines a healthcare institution as "any hospital, convalescent hospital, health maintenance organization, health clinic, nursing home, extended care facility, or other institution devoted to the care of sick, infirm or aged person[s]."

or hospitalization services. See *Allied Abilities and Goodwill, Inc.*, 226 NLRB 1224, 1225 (1976) (denying health care status to employer that provided independent living assistance, vocational rehabilitation, schooling for mentally impaired children, social guidance, and hygiene instruction). In any event, I would reach the same conclusion of appropriateness under the “empirical community of interest test” that the Board applies to determine appropriateness to a non-acute health care facility. *Park Manor Care Center*, 305 NLRB 872 (1991); *Allen Health Care Services*, 332 NLRB 1308 fn. 4 (2000).

Under that test, the Board considers community-of-interest factors, as well as those factors considered relevant by the Board in rulemaking proceedings, evidence presented during rulemaking with respect to units in acute care hospitals, and prior cases involving either the unit at issue or the particular type of health care facility in dispute. The Board, however, did not consider this type of facility during the rulemaking process. See *Collective Bargaining Units in the Health Care Industry*, 284 NLRB 1528 (1988), and 284 NLRB 1580 (1989). Generally, in a non-acute setting, the Board’s goal is to find a middle-ground position, to allocate power between labor and management by “striking the balance” in the appropriate place, with units that are neither too large nor too small. *Park Manor*, *supra*, at 876 quoting 53 Fed. Reg. 33904, 284 NLRB at 1534. Here, the Employer did not present, nor did I find, any relevant Board precedent that would require only an employer-wide unit on the present facts. I also note that many of the unit employees work at production facilities and community businesses that are not institutions devoted to the care of the sick. Upon consideration of the traditional community of interest factors as discussed below, I find the balance is appropriately struck in this case by directing elections in a residential unit, a DT unit, and a production unit.

Contrary to the Employer’s assertions, an employer-wide unit is not required simply because an employer is a health care provider. Even in the health care industry, the Act does not require that the requested unit for bargaining be the *only* appropriate unit, or the *ultimate*

unit, or the *most* appropriate unit. *Bartlett Collins Co.*, 334 NLRB No. 76 (2001). In *Faribault Clinic*, 308 NLRB 131, 133 (1992), the Board held that in the health care industry, as in any other, unions are not required to organize in the most comprehensive unit available or even the most appropriate unit—they need only select an appropriate unit. While the Petitioner's requested units might not be the optimal appropriate units, they are appropriate units on balance of the salient community of interest factors. I am not persuaded by the Employer's argument that all of its operations are functionally integrated simply by virtue of the Employer's shared overall mission of improving the quality of life for individuals with disabilities. Accordingly, as modified below, I shall direct elections in each the Petitioner's requested units.

### **The Residential Unit**

The Petitioner's requested residential unit seeks 106 nonprofessionals employed by Residential working at the Employer's 13 group homes. These employees, along with the LPN, comprise a readily identifiable and sufficiently distinct group of employees. Such a unit conforms to the Employer's corporate structure and is not an arbitrary or irrational grouping of employees. *Alamo Rent-A-Car*, 330 NLRB 897, 899 (2000) (petitioned-for unit of all employees at two out of four rental car facilities in the San Francisco area is not appropriate where grouping failed to conform to administrative function or other grouping of the Employer's operations). Here, the Petitioner seeks to include all 13 group homes that are operated by the Employer's separately incorporated Residential division. The Petitioner has not sought some arbitrary grouping of homes.

All of Residential employees work under similar conditions at the group homes, and all employees are subject to the Residential handbook, which provides for different benefits than the Employer's other corporate divisions. The group home employees share supervision that is distinct from the Employer's other employees.<sup>12</sup> There is no significant interchange with other

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<sup>12</sup> While the maintenance technician technically reports to the director of safety, the technician testified that in practice, the technicians regularly respond to orders from the facility supervisors at the Employer's group homes.

employees. Here, the residential care providers assist persons receiving services with all facets of their daily life, including bathing, dressing, cleaning, and cooking. Contrary to the Employer's argument, I conclude that the cooking and cleaning performed by residential staff as an element of residential care and training at the Employer's group homes is significantly different than the commercial service work performed by janitors and food service employees. Additionally, the Employer's janitorial and food service employees are separately supervised, work at different locations, and there is no interaction or interchange between these employees and the CSWs, MHPs, HTs, or cooks. While there may be some job related interaction with DT employees that would make a combined unit appropriate, this limited interaction does not compel their inclusion in a single unit. Specifically, this factor does not override the lack of significant temporary or permanent transfers, separate supervision, different working hours and work sites, and different benefits packages.<sup>13</sup> Accordingly, I conclude that employees working at the Employer's group homes, including the LPN and the maintenance technicians who spend 85 percent of their time working at group homes, share a community of interest that is separate and distinct from the Employer's other employees.<sup>14</sup> See also *Contemporary Guidance Services, Inc.*, 291 NLRB 50, fn. 2, (1988) (confirming appropriateness of unit limited to counselors, housekeepers, and maintenance employees at three residential facilities of employer providing services to the developmentally disabled and excluding sheltered workshops and vocational training programs at other locations).

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<sup>13</sup> As salaried employees, the DT employees receive health insurance, life insurance, and can participate in the Employer's 401(k). Residential hourly employees are not eligible to participate in the Employer's 401(k). While they can participate in the Employer's insurance plan, the record suggests they must pay higher premiums than salaried DT employees. As noted earlier, the Challenge DT salaried employees are subject to a different holiday, sick pay, personal day, and vacation package than the Residential group employees.

<sup>14</sup> The LPN's status as a technical employee is an insufficient basis for excluding her from the Residential unit. See *Hallandale Rehabilitation and Convalescent Center*, 313 NLRB 813, 814 (1994)(pragmatic inquiry considering traditional community of interest and other factors governs placement of technical); *Pine Manor, Inc.*, 238 NLRB 1654, 1659 (1978) (LPNs may appropriately be included in service and maintenance unit). Moreover, if excluded, the LPN would be unable to seek representation as the only remaining non-professional Residential employee.

### **The DT Unit**

The Petitioner's requested unit of the Employer's DT employees conforms to the Employer's departmental grouping and is not an arbitrary grouping or illogical gerrymandering of employees. The DT employees share common separate supervision and similar working conditions that are different from other employees. There is no significant permanent or temporary interchange with other departments. While the Employer points to some similarities in function between some of the DT classifications and other job classifications, any similarity in function does not override the other community of interest factors. Nor is the contact between DT employees and any other group of employees significant enough to render the requested unit inappropriate on balance of the community of interest factors.<sup>15</sup> I do not accord any significance to the presence of two VR employees at the Alton DT facility when their presence is a matter of space considerations. These employees do not perform DT work and they are not supervised by a DT manager. Moreover, both VR employees spend the vast majority of their time in the field, not in their offices at the DT facility. Accordingly, I conclude that the Petitioner's requested unit of DT employees working at the Employer's two DT facilities is an appropriate unit.

### **The Production Unit**

The Petitioner's requested production unit, to the extent that it seeks production employees working at the Employer's production facilities, is an appropriate unit. The production employees are a distinct and cohesive group of employees with a community of interest separate from other employees. Moreover, this grouping comports with the Employer's administrative separation of production and service operations, which have separate lines of

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<sup>15</sup> Moreover, I note that much of the testimony regarding employee interaction is of little evidentiary value because it consists of yes or no answers to generic questions posed by Employer's counsel. Even where the record contains more specific testimony regarding a particular classification, the Employer has overstated this testimony. For example, in its brief, the Employer argues that the Alton DT case managers "regularly" visit the Employer's group homes. However, the record reflects only that case managers "might" go to the home of a person receiving services, which "could" be one of the Employer's group homes. This testimony does not establish that the case managers "regularly" visit the Employer's group homes.



supervision. Here, the vice president of operations administers all of the Employer's service contracts, including the US Steel and Conoco/Phillips service contracts with Alpha. However, the Alpha production operations are managed by the vice president of sales and marketing. There is no service work that is performed at the production facilities.

The Employer's production operations are highly interrelated, thus it is appropriate to include all three facilities in a single unit. Indeed, the Employer's production operations depend in large part upon its relationship with Dial Corporation.<sup>16</sup> The Employer opened the RiversEdge facility because it did not have sufficient space at Alpha to perform work for Dial. The Alpha-Dial operations occur within the Dial warehouse and the production work performed at that location is exclusively Dial work. Similarly, the vast majority of work performed at the other locations is Dial production work. In addition to the work performed at RiversEdge for Dial, the Employer stores Dial products from Alpha at the RiversEdge warehouse. Accordingly, the work performed at all locations is substantially similar and performed under similar working conditions. The production employees perform production work that is plainly different than the service work performed by employees pursuant to service contracts and the direct care provided by group home employees or the DT staff. Again, there is no significant temporary or permanent interchange of employees from other Employer groups. In light of the foregoing, I conclude that a unit limited to production employees is appropriate given these employees' shared distinct community of interest. See *e.g., Macy's West Inc.*, 327 NLRB 1222, 1224 (1999) (employer-wide multilocation unit limited to maintenance engineers is appropriate given separate supervision, lack of interchange, different duties, and minimal transfers); *Dinah's Hotel Corporation*, 295 NLRB 1100, 1100-1102 (1989) (under traditional community of interest factors, unit limited to front desk employees at hotel was appropriate considering the vast difference in

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<sup>16</sup> Indeed, if the Employer lost the Dial production work, it appears that the production operations would either cease or be greatly downsized, unless the Employer located another area manufacturer in need of shrink wrapping production.

work and lack of interchange, even though all employees subject to similar working conditions and desk employees even shared supervision with maintenance department).

The Employer also argues that the forklift operators and janitors who work at the production facilities do not perform production-related work. I disagree. In carrying out their duties, these classifications provide daily assistance to the production workers. They perform production-related work and play a substantial role in the Employer's coordinated production process. The inclusion of these classifications comports with settled Board precedent. For example, the Board traditionally includes plant employees who perform clerical duties in close association with the production process in a production unit even though they may be classified as clerks. See *e.g. Brown & Root*, 314 NLRB 19, 24 (1994) (including forklift drivers, tool clerks, and other clerks who played substantial role in construction process in construction unit due to frequent interaction with unit employees and construction related duties). Accordingly, I conclude that the employees performing production or production-related work at the Employer's production facilities constitute a readily identifiable group of employees with a separate community of interest. However, the Petitioner's production unit also seeks to include the separately supervised transportation department employees and the "Alpha-Swansea" employee who has been reassigned to the Swansea DT facility to perform assembly work. Because these employees do not perform any production work at the production facilities, I shall not include them in the production unit.

However, these employees are appropriately placed in the DT unit. The transportation department employees regularly transport persons receiving services to and from the Employer's DT facilities. The "Alpha-Swansea" employee performs assembly work alongside persons receiving services who are assisted and supervised by unit employees at the Swansea DT facility. Accordingly, I shall include these employees in the DT unit because of the daily, work-related interaction between these employees and employees at the DT facilities.

### III. CONCLUSIONS AND FINDINGS

Based on the entire record in this matter and in accordance with the discussion above, I conclude and find as follows:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are affirmed.
2. The Employer is engaged in commerce within the meaning of the Act, and it will effectuate the purposes of the Act to assert jurisdiction herein.<sup>17</sup>
3. The Petitioner claims to represent certain employees of the Employer.
4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.
5. The following employees of the Employer constitute units appropriate for the purpose of collective bargaining within the meaning of Section 9(b) of the Act:

#### The Residential Unit:

All full-time and regular part-time community service workers, community service worker/team leaders, community service worker/mental health professionals, mental health professionals, team leaders, team leader/mental health professionals, licensed practical nurse, habilitation technicians, cooks, cook/habilitation technicians, and maintenance employees employed by the Employer working at its Alton Bluffs Estate, Degenhardt, Fosterburg Terrace, Henry, Main, Oakwood I, Oakwood II, Union, Ridgewood, Dogwood, Twin Rivers Estate, Lewis & Clark Manor, and Lynhaven Manor residential group homes, EXCLUDING persons receiving services, office clerical and professional employees, guards and supervisors as defined in the Act, and all other employees.

#### The DT Unit:<sup>18</sup>

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<sup>17</sup> The Employer consists of three Illinois corporations engaged in the business of providing services to the disabled. During the past 12 months, the Employer, in conducting these operations, derived gross revenues in excess of \$1,000,000, and purchased and received at its Illinois facilities goods and services valued in excess of \$50,000 directly from points outside the State of Illinois.

<sup>18</sup> In accordance with the parties' stipulations at hearing and in their briefs, I shall allow data research technologist Kristen Magee, operations specialist David Sirous, the Alton DT facility assistant production manager, the Alton cafeteria manager, the Swansea production coordinator, and the Swansea cafeteria manager to vote in the DT unit, subject to the Board's challenge procedure.

All full-time and regular part-time case managers, job coaches, head supervisor, lead supervisor/program supervisor, lead trainer/special needs, program supervisors, program supervisor/safety, program assistants, cafeteria employees, head trainer, and assembly employees employed by the Employer at its developmental training facilities in Alton and Swansea, Illinois, and bus drivers, CDL bus drivers, van drivers, and bus monitors employed by the Employer in its transportation department, EXCLUDING persons receiving services, office clerical and professional employees, guards and supervisors as defined in the Act, and all other employees.

The Production Unit:

All full-time and regular part-time production employees, line leaders, forklift drivers, production/janitors, machine operators, machine operator/line leaders, over-the-road tractor/trailer drivers, and lead quality assurance assistants employed by the Employer at its Alpha, Alpha-Dial, and RiversEdge facilities, EXCLUDING persons receiving services, office clerical and professional employees, guards and supervisors as defined in the Act, and all other employees.

#### **IV. DIRECTION OF ELECTIONS**

The National Labor Relations Board will conduct secret ballot elections among the employees in the units found appropriate above. The employees in these units will vote on whether or not they wish to be represented for purposes of collective bargaining by: AFSCME Council 31, AFL-CIO (American Federation of State, County & Municipal Employees Council 31).

##### **A. Voting Eligibility**

Eligible to vote in the elections are those in the units who were employed during the payroll period ending immediately prior to the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Employees engaged in any economic strike, who have retained their status as strikers and who have not been permanently replaced are also eligible to vote. In addition, in an economic strike which commenced less than 12 months before the election date, employees engaged in such strike who have retained their status as strikers but who have been permanently replaced, as well as their replacements are eligible to vote. Those in the military services of the United States may vote if they appear in person at the polls.

Ineligible to vote are: (1) employees who have quit or been discharged for cause since the designated payroll period; (2) striking employees who have been discharged for cause since the strike began and who have not been rehired or reinstated before the election date; and (3) employees who are engaged in an economic strike that began more than 12 months before the election date and who have been permanently replaced.

#### **B. Employer to Submit Lists of Eligible Voters**

To ensure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the elections should have access to a list of voters and their addresses, which may be used to communicate with them. *Excelsior Underwear, Inc.*, 156 NLRB 1236 (1966); *NLRB v. Wyman-Gordon Company*, 394 U.S. 759 (1969).

Accordingly, it is hereby directed that within 7 days of the date of this Decision, the Employer must submit to the Regional Office election eligibility lists, containing the full names and addresses of all the eligible voters in each unit. *North Macon Health Care Facility*, 315 NLRB 359, 361 (1994). These lists must be of sufficiently large type to be clearly legible. To speed both preliminary checking and the voting process, the names on the lists should be alphabetized (overall or by department, etc.). Upon receipt of the lists, I will make them to all parties to the elections.

To be timely filed, the lists must be received in the Regional Office, 1222 Spruce Street, Room 8.302, St. Louis, MO 63103, on or before **June 23, 2004**. No extension of time to file these lists will be granted except in extraordinary circumstances, nor will the filing of a request for review affect the requirement to file these lists. Failure to comply with this requirement will be grounds for setting aside the elections whenever proper objections are filed. The lists may be submitted by facsimile transmission at (314) 539-7794 or by electronic mail at Region14@nrlb.gov. Since the lists will be made available to all parties to the elections, please furnish a total of **two** copies, unless the lists are submitted by facsimile or electronic mail, in

which case no copies need be submitted. If you have any questions, please contact the Regional Office.

### **C. Notice of Posting Obligations**

According to Section 103.20 of the Board's Rules and Regulations, the Employer shall post the Notices of Election provided by the Board in areas conspicuous to potential voters for a minimum of 3 working days prior to the date of the election. Failure to follow the posting requirement may result in additional litigation if proper objections to the election are filed. Section 103.20(c) requires an employer to notify the Board at least 5 working days prior to 12:01 a.m. of the day of the election if it has not received copies of the election notice. *Club Demonstration Services*, 317 NLRB 349 (1995). Failure to do so estops employers from filing objections based on nonposting of the election notice.

### **V. RIGHT TO REQUEST REVIEW**

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street, N.W., Washington, D.C., 20570-0001. This request must be received by the Board in Washington by **June 30, 2004**. The request may not be filed by facsimile.

Dated: June 16, 2004  
at: Saint Louis, Missouri

/s/ [Ralph R. Tremain]  
Ralph R. Tremain, Regional Director  
National Labor Relations Board, Region 14